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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,275	08/22/2001	Gerardo Castillo	PROTEO.P03	1974

7590 08/14/2006
PROTEOTECH, INC.
12040 115TH AVE. NE
KIRKLAND, WA 98034

EXAMINER

CHERNYSHEV, OLGA N

ART UNIT	PAPER NUMBER
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1649

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,275

Applicant(s)

CASTILLO ET AL.

Examiner

Olga N. Chernyshev

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 11, 15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 11, 15 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 4, 11, 15 and 20 have been amended and claims 1, 12 and 28 have been cancelled as requested in the amendment filed on July 10, 2006. Following the amendment, claims 4, 11, 15 and 20 are pending in the instant application.

Claims 4, 11, 15 and 20 are under examination in the instant office action.

2. The Text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Any objection or rejection of record, which is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

4. Applicant's arguments filed on July 10, 2006 have been fully considered but they are not deemed to be persuasive for the reasons set forth below.

Claim Rejections - 35 USC § 112

5. Claims 4, 11, 15 and 20, as amended, stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for reasons that follow.

6. Claim 15 is indefinite as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections, see reasons of record in section 10 of Paper mailed on January 05, 2006. Applicant traverses the rejection on the premises that "there are no missing structural relationship in the claims; those skilled in the art well understand the relationship between the presence of beta-

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amyloid protein and the normal (uninhibited) formation of beta-amyloid protein fibrils” (pp. 3-4 of the Response). Applicant’s arguments have been fully considered but are not persuasive because the claimed method, as written, fails to articulate the difference, if there such exists, between beta-amyloid protein fibril(s) and beta-amyloid protein. It appears that Applicant is trying to recite administration of a polypeptide of SEQ ID NO: 3 to an *in vitro* cell culture containing beta-amyloid protein to inhibit process of fibrilization of beta-amyloid protein as compared to a control culture containing beta-amyloid protein only. However, this is not what is currently being claimed.

7. Claim 15 is further indefinite for recitation of the term "inhibiting or reducing", which renders the claim indefinite, see reasons of record in section 11 of Paper mailed on January 05, 2006. Applicant submits that “any degree of inhibition of amyloid fibril formation in environments such as those claimed” (bottom at p. 3). However, as fully explained previously, “inhibition” is a relative term (for example, if cell culture conditions are such that there is no fibril formation present, what would be the result of adding a protein of SEQ ID NO: 3?). Until point of reference (a comparison step) is presented within the claim language, the metes and bounds of the limitation cannot be positively determined.

8. Claim 4 remains vague and ambiguous for recitation of synthesized polypeptide. Contrary to Applicant’s statement (second paragraph at p. 4 of the Response), unless otherwise defined, all known proteins are synthesized, therefore, the polypeptide recited in claim 11 is also originally synthesized.

9. Claims 11 and 20 are indefinite for being dependent from indefinite claims.

Conclusion

10. No claim is allowed.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

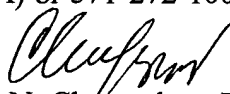
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga N. Chernyshev whose telephone number is (571) 272-0870. The examiner can normally be reached on 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Olga N. Chernyshev, Ph.D.
Primary Examiner
Art Unit 1649

August 7, 2006